THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.20231 of 2005

ORDER:

The petitioner was appointed as a constable in the Central Industrial Security Force against the vacancy reserved in favour of Scheduled Tribe. The social status of the petitioner was certified by the Mandal Revenue Officer, Madira, through certificate, dated 02.08.1988. The respondent issued a show cause notice, dated 20.08.2005, stating that during the course of verification as to the genuinity of the caste certificate produced by the petitioner, the Mandal Revenue Officer, Madira, reported that the petitioner belongs to Boya caste and that the certificate produced by him to the effect that he belongs to Scheduled Tribe is not genuine. The petitioner was directed to explain within seven days as to why necessary action should not be taken against him. The petitioner challenges the same.

Learned counsel for the petitioner submits that the caste certificate issued to the petitioner by the Mandal Revenue Officer is in tact, and unless it is cancelled by the competent authority under the provisions of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997 made thereunder, no action can be taken against the petitioner. Learned Standing Counsel for the respondent, on the other hand, submits that the writ petition is not maintainable against the show cause notice, and it is only when an order adverse to the interest of the petitioner is passed then he can be said to have suffered any grievance. He contends that the present effort is only to know the truth of the matter and no exception can be taken to it.

On the strength of a caste certificate, dated 02.08.1988, issued by the Mandal Revenue Officer, Madira, the petitioner came to be selected as a constable in the Central Industrial Security Force against the vacancy reserved in favour of Scheduled Tribe. The Andhra Pradesh State Legislature enacted the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short "the Act") prescribing the procedure for issuance of caste and community certificate or cancellation thereof. In 1997, Rules were framed under the Act. Section

5 of the Act, prescribes the procedure for cancellation of certificate issued by an authority whenever the validity of its doubted. Section 21 mandates that a community certificate issued by an authority before the Act came into force shall be treated as valid, unless it is cancelled in accordance with the provisions of the Act. Rule 21 is also to the same effect. As of now, no proceedings have been initiated against the petitioner under Section 5, much less the caste certificate was cancelled.

The question of the respondent initiating any proceedings against the petitioner would arise if only the competent authority under the Act and Rules had cancelled the caste certificate issued to the petitioner. As long as the caste certificate is in tact, the petitioner has to be treated as belonging to the Scheduled Tribe. Though the writ petition is filed against the show cause notice, the facts referred to above clearly disclose that very initiation of proceedings is without any basis.

Therefore, the writ petition is allowed and the impugned show cause notice is set aside. It is, however, made clear that in case the caste certificate issued to the petitioner is cancelled in accordance with the procedure prescribed under the Act and Rules, it shall be open to the respondent to initiate necessary action against the petitioner. No order as to costs.

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L.NARASIMHA REDDY,J

Date:19.09.2005

GJ/TSR

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.20231 of 2005

DATED:19.09.2005

Between:

M. Srinivasa Rao ..Petitioner

And

The Commandant, Central Industrial Security Force,

(Ministry of Home Affairs), Singareni Colleries Company Limited,

Siongareni, Bellampalli Post, Adilabad District.

..Respondent

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO.20231 of 2005

DATED:19.09.2005